

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Priority Mail Express, Priority Mail &
First-Class Package Service
Priority Mail Express, Priority Mail &
First-Class Package Service Contract 39

Docket No. MC2018-180

Competitive Product Prices
Priority Mail Express, Priority Mail &
First-Class Package Service Contract 39
(MC2018-180)
Negotiated Service Agreement

Docket No. CP2018-252

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE REQUEST TO ADD
PRIORITY MAIL EXPRESS, PRIORITY MAIL &
FIRST-CLASS PACKAGE SERVICE CONTRACT 39
TO THE COMPETITIVE PRODUCT LIST

(June 22, 2018)

The Public Representative hereby provides comments pursuant to the Commission notice initiating this docket.¹ In that notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 to the competitive product list.²

The Postal Service's Request includes a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. § 3633(a), a public (redacted) version of Governor's Decision No. 11-6 and related analysis, a public (redacted) version of

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 15, 2018.

² USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 to Competitive Product List and Notice of Filing Materials Under Seal, June 14, 2018. (Request)

Priority Mail Express, Priority Mail & First-Class Package Service Contract 39, and proposed changes to the Mail Classification Schedule competitive product list with the additions underlined. The Postal Service also filed under seal an unredacted version of Governor's Decision No. 11-6 and Priority Mail Express, Priority Mail & First-Class Package Service Contract 39, and supporting financial data estimating the contract value during the first year.

According to the Postal Service, Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 is a competitive product "not of general applicability" within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. The Postal Service also maintains that the prices and classification underlying the instant contract are supported by Governors' Decision No. 11-6.³ The Postal Service further asserts that the Statement of Supporting Justification provides support for adding Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 to the competitive product list and the compliance of the contract with 39 U.S.C. § 3633(a). Request at 1.

The contract's effective date will be set 2 business days after receiving final regulatory approval by the Commission. Attachment B at 11. The contract is to expire 3 years from the effective date, unless (1) terminated by either party with 30 days' notice to the other Party in writing, (2) renewed by mutual agreement in writing, (3) superseded by a subsequent Agreement between the Parties, (4) ordered by the Commission or a court, or (5) required to comply with subsequently enacted legislation. *Id.*

COMMENTS

The Public Representative has reviewed the instant contract, the Statement of Supporting Justification, and the financial data and model filed under seal that

³ Decision of the Governors of the United States Postal Service on Establishment of Domestic Competitive Agreements, Outbound International Competitive Agreements, Inbound International Competitive Agreements, and Other Non-Published Competitive Rates, March 22, 2011 (Governors' Decision No. 11-6).

accompanies the Postal Service's Request. Based upon that review, the Public Representative concludes that Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 should be categorized as a competitive product and added to the competitive product list. In addition, it appears that the instant contract will generate sufficient revenues to cover costs in the first year and thereby satisfy the requirements of 39 U.S.C. § 3633(a).

Product List Assignment. Pursuant to 39 U.S.C. § 3642, the Postal Service requests that Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 be added to the competitive product list. 39 U.S.C. § 3642 requires the Commission to consider whether "the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products." 39 U.S.C. § 3642(b)(1). Products over which the Postal Service exercises such power are categorized as market dominant while all others are categorized as competitive.

The Postal Service makes a number of assertions that address the considerations of section 39 U.S.C. § 3642(b)(1). Attachment D. These assertions appear reasonable. Based upon these assertions, the Public Representative concludes that the Postal Service's Request to add Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 to the competitive product is appropriate.

Requirements of 39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial data, the negotiated prices for Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 should generate sufficient revenues to cover costs during the first year of the contract and therefore meet the requirements of 39 U.S.C. § 3633(a).

Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 is expected to remain in effect for a period of 3 years. During this 3 year period, the contract contains a mechanism for annual upward adjustment of prices. Finally, the Postal Service must file revenue and cost data for Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 for review in future Annual Compliance Reports. This data will permit the Commission to annually review the financial results for Priority Mail Express, Priority Mail & First-Class Package Service Contract 39 for compliance with 39 U.S.C. § 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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